

Exhibit “XX” to Amended Verified Petition

TOWN OF MONTGOMERY

Supervisor's Office

March 17th, 2005

MAR 23 2005

Alexander F. Cieslik, Jr.
NYSDEC
21 South Putt Corners Road
New Paltz, NY 12561-1696

RE: Mehlon Trucking
DEC#3-3342-00022-00005

Dear Mr. Ciesluk:

The Mehlon Trucking Inc. application to the DEC for the King's Hill Road Shale Mine and the subject of your Notice of Complete Application dated February 8, 2005, has been reviewed by the Town Board, Town Attorney, Town Engineer, Town Planner and Town Building Inspector. According to the Town Building Inspector's enclosed letter the proposed use is not allowed on this site in an RA-.5 zone by the Town of Montgomery Zoning Law. The property is located in the RA-.5 zoning district.

The use: "Quarry, mining, loading, hauling and/or processing of sand, gravel, shale or topsoil" is allowed in the ID, I-3, I-4 districts only by Special Use Permit. As a result, the proposed use which had been in operation some years ago would no longer be allowed in the Town of Montgomery.

However, should a zoning use variance be sought by the applicant and granted by the Town Zoning Board of Appeals and should the Planning Board then undertake a Special Use and Site Plan Review, the following concerns would have to be addressed.

TRAFFIC/ROAD CONDITIONS (Not listed as an issue)

The applicant proposes a new haul road with improved site distances, but fails to indicate what the sight distances are or to discuss the fact that there are truck weight limits and concerns imposed by the NYCDEP in regard to crossing the Catskill Aqueduct directly west of the new entrance.

MINE LIMIT SETBACKS

The issue of separation between the use and adjacent residences is addressed as 300 feet in the case of temporary sand and gravel operations. There are no separation requirements for quarries and housing since shale quarries are not allowed in residential areas. While, the actual separation that exists would likely be adequate if such uses were allowed there is no consideration for the impacts of wells in the adjacent Town of Newburgh where the closest homes are located.

BARRIERS TO RESTRICT ACCESS

Gates are proposed at the entrance road which should be closed and locked when the site is not operational. Fences should be installed wherever there are steep grades near the mining areas.

DUST CONTROL

This area should be addressed and appears to also be a DEC concern. Keeping mud, dust and dirt off King's Hill Road is necessary and the basic separation of uses appear to be adequate dust control on site in addition to watering the haul road.

HOURS OF OPERATION

Hours of operation are 8:00 am to 4:30 pm Monday- Friday and 8:00 am to 3:30 pm on Saturday. We have no comment on the hours planned.

OTHER ISSUES

This proposal has several basic impacts. One is on the residents of Newburgh and Montgomery that live off of and along King's Hill Road. They will hear the trucks changing gears and moving slowly up the steep hill. Noise, road impacts and traffic must be addressed.

The second impact is on the resident's of King's Hill Drive off Route 300 in Newburgh. This cul-de-sac neighborhood is quiet and isolated. The woods and hill behind them should help offset the potential noise of the site. The houses appear to be about 600-800 feet away and 50 feet below the wooded hill, the ridge of which forms the border of the two towns. The blasting will be a concern where houses may be built on shale.

AN 80 x 80 building is shown only on 38 feet from the property line although the map shows a 50 foot separation. This must be clarified and would likely cause a use variance. It should be located farther from the lot line.

Page 3 of the report states the "Mined Land Use Plan has been developed to conform with the local regulations and zoning laws,....". How is that possible if the zoning in Montgomery does not allow the use?

Page 5 indicates 250,000 cubic yards per three year period or up to 1,250,000 cubic yards rather than 820,000. The mine life could extend to 2020.

Page 6 indicates trees, stumps and brush will be removed and chipped or turned into mulch on site. This is another use only allowed in other zones in Montgomery but not in this RA-.5 zoning district.

The report should be proof read to clean up errors. On page 14 it states Saturday hours are 8-3:30 and the next sentence says there are no Saturday operations rather than no Sunday operations.

There are no plans for the new site road and the plans for the existing road are from 1988-89. All of our substantive comments are offered only in the event that the applicant is able to obtain the use variance necessary to enable the Town of Montgomery Planning Board review. We need new plans and all plans for any portion of the site should be current and signed by Darren Doce, the new engineer.

Proposed access drive is to be located on Kings Hill directly across from Snowden but only after the mine is in operation for six (6) months.

There is significant detail and information on the existing drive across from King's Hill Circle as the access drive but none for the proposed drive adjacent to Snowden.

The plans have been submitted by Doce Associates, but many of the plan sheets are signed by Barry Cheney of Wehran. (Wehran Engineering is defunct.) Design responsibility should be clarified.

There is significant concern for the control of stormwater runoff. It has been our experience to witness flash flooding from this site into the King's Hill community where significant damage resulted. We believe significantly more work is required in the control of volume. We question some of the input selections for the TR-55 model. We suggest that the applicant's engineer revise the drainage report to conform to the Town's standard format discussed on the attached Planning Board memorandum. Use of the Town's standard forms will greatly assist our review. A detail map of the entire watershed is most appropriate in this case.

Truck traffic is estimated by Wehran Engineering (in 1988) at 20 trucks/day (14cy each). The revised plan does not make any reference to traffic. Traffic analysis should be conducted.

The new access road is to be completed in the early stages of Phase I, the report says six (6) months after mining operations begin.

The applicant should provide catalog cuts of the specific equipment to be used, including the screen, crusher, water mist equipment, and water tankage for on-site dust control.

It is our experience that this kind of activity, while in operation, does not maintain adequate dust control. The Board should consider some form of mitigation in this regard, perhaps an asphalt access road.

The noise analysis provided should be more comprehensive. A scaled map of the site and placement of the noise sources as well as the location of the nearest residences would be appropriate. The cumulative power from all the sources should be considered. Noise levels at the property line and at the nearest residence should be determined.

Thank you for allowing the Town of Montgomery to comment on this important matter.

Sincerely yours,



Susan L. Cockburn
Town of Montgomery Supervisor

Cc: Town Board Members
Town of Montgomery Planning Board Members
Debra Walsh, Building inspector

2 Enclosures

Building Department

Memo

To: Susan Cockburn, Supervisor and Town Board Members
From: Debbie Walsh, Building Inspector
CC: Molly Miller, Town Clerk Rich Hoyt, Town Attorney
Date: March 16, 2005
Re: Mehlon Trucking – DEC Inquiry

I have reviewed the closed files regarding Mehlon Trucking and can not find any paper work for a final approval from the Planning Board issuing a SEU to operate any type of mining operation past or present. My review of the files was prompted by a letter the Town of Montgomery received from the NYSDEC requesting comments on the Mehlon DEC Mining permit application. Mehlon Trucking has not filed any new application with the Town of Montgomery at this time.

The file does show that the applicant, Mehlon Trucking, was seeking a SEU for a shale operation in August of 1988. The Planning Board at that time was calling it a temporary sand and gravel operation which would have been an incorrect description of the project.

Since no SEU was granted and the application was abandoned, Mehlon Trucking will be required to start from the beginning as a new application under today's zoning.

Today's zoning allows a temporary sand and gravel operation in all zones, but a quarry for shale removal is only allowed in the industrial zones. It is my opinion that Mehlon Trucking would be required to seek a use variance from the Zoning Board before placing an application to the Planning Board.

If there are any questions regarding this matter, please feel free to contact me.

Page 4 - Technical Details Subdivision Checklist

n. A large note specifically worded as follows:

1. A Town of Montgomery Building Permit shall not be issued until the requirements of Standard Plan for Erosion and Sediment Control have been installed, and
2. Before any site disturbance, the owner/applicant shall locate and clearly mark the proposed sewage disposal field. This area shall remain free of disturbance until such time as the septic system is to be installed. Stripping of topsoil in this area is **strictly prohibited**.
3. The sanitary waste water disposal system installation for each lot shall be supervised by a licensed design professional and certified to the building department before a certificate of occupancy is issued.

o. The County of Orange requirement for the Engineer's standard certification for sanitary design.

p. If a town road is proposed, include the following note on page 1.

Construction of the roadway shall be conducted under the supervision of a licensed engineer and a licensed surveyor who shall certify to the Town Board and the Highway Superintendent that the roadway was constructed in conformance with the approved plans, and that suitable as built documentation shall be provided.

IV. Storm Water Management, Erosion and Sediment Control.

a. Hydrology Analysis is to be provided as an addendum to the Engineer's Report.

1. A TR-55 analysis is to be used. Town of Montgomery data summary forms are provided as an attachment to this memo. They can be duplicated for use.
2. Depending on the size and scope of the project a NYSDEC SPDES permit for construction activities may be required. The engineer is referred to Fig. 3-1 of the NYS Storm water Design Manual. A note indicating whether or not a SPDES permit is required is to be placed on page 1. (See paragraph e.4 below.)

JWN OF MONTGOMERY

Planning Board Project Review
Stormwater Management Data Summary
(for use with TR-55)

Project _____ Drainage Area _____

Prepared by _____

Date _____

Pre Development ☐

Post Development ☐

Ultimate Buildout * ☐

(Applicant must provide suitable maps for reference)

1. PEAK DISCHARGE

Cover Description	Soil Name	Group	Curve No.	Area (Ac)

2. TIME OF CONCENTRATION

24 Hour 2 Year Rainfall = _____ Inches

FLOW	Type Surface	Manning n	Flow Length (ft)	Avg Velocity Ft / Sec	Slope %	T _c (HR)	Total T _c
SHEET (150' Flow Length Maximum)							
SHALLOW							
CHANNEL (Hyd. Radius = _____)							

Time of Concentration _____

Total Area = _____ Ac.

Weighted CN _____

Pond Factor _____

3. COMPUTED HYDROLOGIC DATA

STORM	Precipitation (P) in.	Runoff (Q) in	Peak Disch (Qp) CFS	Total Storm Vol (CF)/(AF)
1 yr				
2 yr				
10 yr				
100 yr				

* per zoning in the total watershed contributing to this site.

Page _____ of _____

4. PROJECT SUMMARY

	Pre Development	Post Development	Ultimate Buildout
Area (Ac)			
Weighted CN			
T _c (Hr)			
Q 1 yr. (inches)			NA
Q 2 yr. (CFS)			NA
Q 10 yr. (CFS)			NA
Q 100 yr. (CFS)			

Water Quality Volume (W Q v)

(Provide suitable BMP for 1.2 " rainfall)

_____ ac - ft

Channel Protection Volume (C P v)

(Provide 24 hours extended detention for one year event)

_____ ac - ft

Peak Control Volume (Q p)

(Provide outlet device for 10 yr. storm)

_____ ac - ft

Flood Control Volume (Q f)

_____ ac - ft

Describe / Name of BMP: _____

Note: Applicant must provide pre and post development site maps that clearly define the drainage area under investigation, shows the boundaries of surface covers within, and delineates time of concentration flow path.

TOWN OF MONTGOMERY**OFFICE USE ONLY**

(signature of applicant's engineer)

(print / type - name, title and company name here)

Page _____ of _____

MAR 23 2005

PLANNING FLOW CHART - RUNOFF CONTROL

Runoff Control

RUNOFF CONTROL
CONTROL GULLY, CHANNEL & STREAM EROSION

DRAINAGE-
WAYS

DIVERT
RUNOFF

DIVERSIONS

EARTH DIKE
PERIMETER DIKE/SWALE
TEMPORARY SWALE
WATER BARS
DIVERSION
STORM DRAIN DIVERSION

CONVEY
RUNOFF

WATERWAYS

CONCRETE PAVED CHANNEL
GRASSSED WATERWAY
ROCK LINED WATERWAY
GRADE STAB. STRUCTURE

INTERCEPT
GROUND
WATER

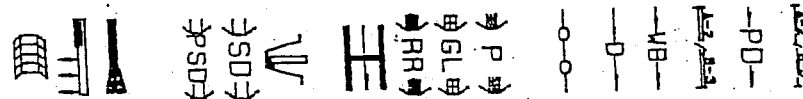
ENCLOSED
DRAINAGE

SUMP PIT
SUBSURFACE DRAIN
PIPE SLOPE DRAIN

STABILIZE
OUTLET

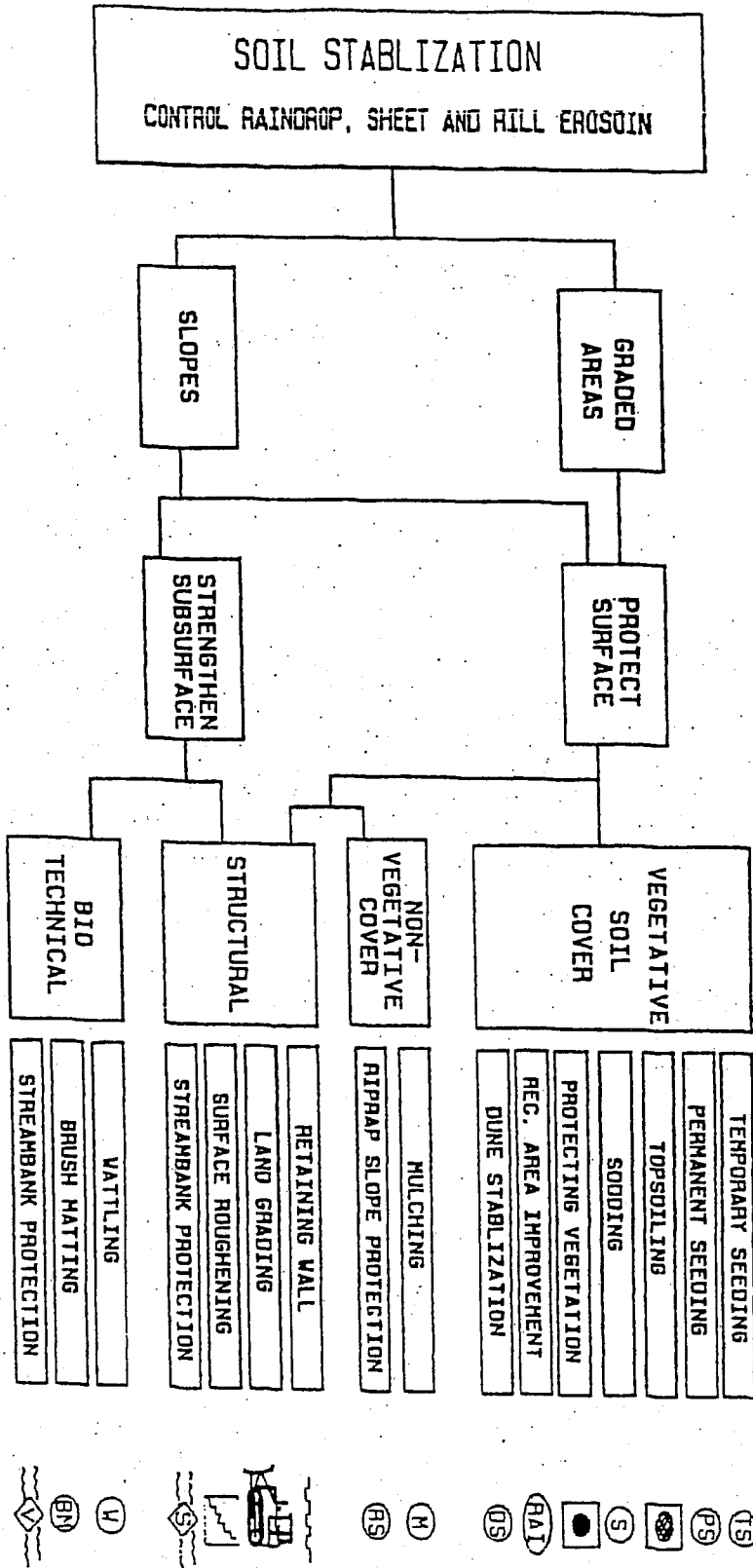
OUTLETS

ROCK OUTLET PROTECTION
LEVEL SPREADER
PAVED FLUMED



Soil Stabilization (Erosion Control)

PLANNING FLOW CHART - SOIL STABILIZATION



Sediment Control

PLANNING FLOW CHART - SEDIMENT CONTROL

